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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,756	07/17/2003	Marco Constantino Waterman	30394-1097	5611
5179	7590	05/12/2005	EXAMINER	
PEACOCK MYERS AND ADAMS P C			MORRISON, NASCHICA SANDERS	
P O BOX 26927			ART UNIT	
ALBUQUERQUE, NM 871256927			PAPER NUMBER	
			3632	

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/613,756

Applicant(s)

WATERMAN, MARCO  
CONSTANTINO

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3,6 and 7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,6 and 7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the third Office Action for serial number 10/613,756, Device for hanging up an object, filed on July 17, 2003. Claims 1-3, 6 and 7 are pending.

#### ***Withdrawal of Finality***

Applicant's request for reconsideration of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Claim Objections***

Claim 1 is objected to because of the following informalities: on line 5 delete "provided with", on line 7 "the first parallel" should be --a first of the parallel--, and on line 8 "the second parallel element" should be --a second of the parallel elements--. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,107,823 to Siesto. Siesto discloses a device (Fig. 1 - inverted) comprising: two at least partially overlapping and substantially parallel, flat elements (13, 14) formed of a

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resilient material which imparts a spring force, the elements being movable with respect to each other; wherein the first element (13) extends upwardly and the end of the first element is positioned a short distance from a top rim (12) of the device; wherein the two elements are connected by a third element (10) provided at a side of the first element (13) that faces away from the second element (14); wherein the first element is pivotably and resiliently attached to the third element along a bottom rim (11) and the second element is pivotably and resiliently attached along the top rim (12) to the third element and extends downwardly; wherein the second element (14) is bent outwardly at a free end (15); and wherein the first element (13) has a thickening (87) at a surface thereof facing the second element (14).

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 539,127 to Gump. Gump discloses a device (Fig. 3) comprising: two at least partially overlapping and substantially parallel, flat elements (8, 9) formed of a resilient material which imparts a spring force, the elements being movable with respect to each other; wherein the first element (8) extends upwardly and the end of the first element is positioned a short distance from a top rim (6) of the device; wherein the two elements are connected by a third element (portion adjacent to 1 in Fig. 2) provided at a side of the first element (8) that faces away from the second element (9); wherein the first element is pivotably and resiliently attached to the third element along a bottom rim (7 generally) and the second element is pivotably and resiliently attached along the top rim (6) to the third element and extends downwardly; wherein the second element (9) is

bent outwardly at a free end (at 2 in Fig. 4); and wherein the second element (9) has a thickening (3) at a surface thereof facing the first element (8).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Siesto in view of U.S. Patent 4,563,796 to Kettlestrings. Regarding claim 2, Siesto discloses the device as applied to claims 1 and 3 above, but does not teach the device being formed of plastic or the third element including a fastening surface. Kettlestrings teaches a device (Fig. 2) formed of resilient plastic (col. 2, lines 38-42). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the device of Siesto to be formed of plastic as taught by Kettlestrings because one would have been motivated to provide a device that is lightweight and less expensive to manufacture.

Claims 2, 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gump in view of Kettlestrings. Regarding claims 2, 6 and 7, Gump discloses the device as applied to claims 1 and 3 above, but does not teach the device being formed of plastic or the third element including a fastening surface. Kettlestrings teaches a device (Fig. 2) formed of resilient plastic (col. 2, lines 38-42) comprising a first element (28), a second element (22), and a third element (26b) having a fastening surface (54). Regarding claim 2, it would have been obvious to one of ordinary skill in the art at the

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time the invention was made to have modified the device of Gump to be formed of plastic as taught by Kettlestrings because one would have been motivated to provide a device that is lightweight and less expensive to manufacture. Regarding claims 6 and 7, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the third element of Gump to include a fastening surface because one would have been motivated to permit mounting of the device to a wall or other flat surface as taught by Kettlestrings (col. 1, lines 38-41).

### ***Response to Arguments***

Applicant's arguments, see pages 4 and 5, filed 3/15/05, with respect to the rejection of claims 1-8 under Renne in view of Kettlestrings have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Siesto, Gump, and Kettlestrings.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (571) 272-6820. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 571-272-6815. The fax machine telephone number for the Technology Center is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center at (571) 272-3600.



*Naschica S. Morrison*

Patent Examiner

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**5/3/05**



Korie Chan

Primary Examiner

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